

SENATE BILL REPORT

SB 5019

As Passed Senate, March 8, 2021

Title: An act relating to the recording standards commission.

Brief Description: Concerning the recording standards commission.

Sponsors: Senators Kuderer, Hunt, Brown and Wilson, C..

Brief History:

Committee Activity: Housing & Local Government: 1/12/21, 1/21/21 [DP-WM].
Ways & Means: 2/08/21, 2/15/21 [DP, w/oRec].

Floor Activity: Passed Senate: 3/8/21, 49-0.

Brief Summary of Bill

- Establishes the Recording Standards Commission in place of the Electronic Recording Standards Commission to review recording standards, including electronic recording standards, and make recommendations to the Secretary of State for the purpose of creating regulations for the consistent recording of documents by county auditors.
- Grants rule-making authority to the Secretary of State to provide for the uniform recording of documents in cooperation with the Recording Standards Commission.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Short, Assistant Ranking Member; Cleveland, Lovelett, Salomon and Warnick.

Staff: Bonnie Kim (786-7316)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Lias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Schoesler, Assistant Ranking Member, Capital.

Staff: Sarian Scott (786-7729)

Background: Secretary of State. The Secretary of State is the state's chief elections officer, chief corporations officer, and supervisor of the State Archives. Among the duties of the office, the secretary is responsible for collecting and preserving the historical records of the state and making those records available for research, and coordinating implementation of the state's records management laws.

County Auditors. County auditors are responsible for recording specified documents required by law to be part of the public record kept by a county. The documents that must be recorded by a county auditor include judgments, liens, deeds, mortgages, and many other categories of documents pertaining to property ownership and real estate transactions. State law specifies requirements that must be met by an auditor when exercising an auditor's recording duties and specifically authorizes an auditor to record documents in electronic format.

Electronic Recording Standards Commission. In 2008, the Legislature adopted the Uniform Real Property Electronic Recording Act (URPERA) and the Electronic Recording Standards Commission (ERSC) to advise the state's recording officers—county auditors and other official county recorders—regarding the adoption of standards to implement URPERA. A majority of ERSC must be composed of county recorders or auditors, but may also include assessors, treasurers, land title company representatives, escrow agents, mortgage brokers, the state archivist, and any other party the Secretary of State deems appropriate. URPERA is the product of the National Conference of Commissioners on Uniform State Laws and is designed to establish the legal authority of the recorder to receive and record documents and information in electronic form.

Summary of Bill: The ERSC is newly established as the Recording Standards Commission (Commission). The Commission is tasked with reviewing recording standards, including electronic recording standards, and making recommendations to the Secretary of State for the purpose of creating regulations for the consistent recording of documents by county auditors. A majority of the Commission must be composed of county recorders or county

auditors, but may include assessors, treasurers, land title company representatives, escrow agents, mortgage brokers, the state archivist, county surveyors, and any other party the Secretary of State deems appropriate.

The Secretary of State is directed to make reasonable rules in accordance with federal and state laws, to provide for the uniform recording of documents in cooperation with the Commission. To promote jurisdictional harmony and compatibility in the use of standards, practices, and technology, the Office of the Secretary of State must, in adopting, amending, and repealing rules supporting recording standards, consider:

- the standards and practices of other jurisdictions;
- the most recent standards adopted by national standard-setting bodies, such as the Property Records Association;
- the views of interested persons and governmental officials and entities;
- the needs of counties of varying size, population, and resources;
- standards requiring adequate information security protection to ensure that documents and electronic documents are accurate, authentic, adequately preserved, and resistant to tampering;
- standards for the certification of recorded documents including imaged paper documents and documents received by the recording officer in an electronic form; and
- standards on the documentation and recording of boundary line adjustments for real property.

In addition to the general rule-making authority granted to the Secretary of State under the act, the secretary may make rules governing:

- recording duties of county recorders and county auditors;
- recording standards for the creation of certified copies for use as evidence;
- standards to be used in recording, registration, and legal publication;
- standards for fee waivers including, but not limited to, documents for veterans, and support of dependent children; and
- recording standards for various official documents.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Housing & Local Government): PRO: This is an efficiency bill to streamline county auditor's recording standards. This bill is a priority bill for county auditors. One of the issues in recording is that we do not have a Washington Administrative Code setting body. This causes inconsistencies across the state.

Persons Testifying (Housing & Local Government): PRO: Senator Patty Kuderer, Prime Sponsor; Vicky Dalton, Washington State Association of County Auditors.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The Office of the Secretary of State (OSOS) currently captures document recording fees, and there is room in that to do this work without increasing fees. Counties need technical and policy assistance. The OSOS is happy to partner with the counties. This bill provides regulation across the state. It would establish consistency, and is a priority for county auditors.

Persons Testifying (Ways & Means): PRO: Jay Jennings, Secretary of State Kim Wyman; Vicky Dalton, Washington State Association of County Auditors.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.